



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-6898

PUBLIC NOTICE DATE: July 2, 2004

EXPIRATION DATE: August 2, 2004

REFERENCE NUMBER: POA-1999-1988-M

WATERWAY NUMBER: Tongass Narrows

Interested parties are hereby notified that an application has been received for a Department of the Army permit modification for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Mr. Brian Miller, P.O. Box 1456, Ward Cove, AK 99928-1456
(907-225-6792).

LOCATION: Lot 15, Block 5, USS 3840, section 5, T. 75 S., R. 90 E., Copper River Meridian, Latitude 55°23'26" N., Longitude 131°46'17" on Gravina Island, Alaska.

WORK: The work for this project would involve three parts:

- 1) Construct two breakwater sections made up of three-log bundles anchored by two 5-ton anchors and 4-foot buoys to secure them. The first breakwater will be 80-foot long and will parallel the shore 35-foot to 40-foot from the existing dock with a buoy at each end. The second breakwater will be 60-foot long, running from one end of the 80-foot breakwater and run askew toward the beach anchored by a buoy on the seaward end and a cable attached to a rock bolt set in the beach on the landward end. The anchors, chain, and buoys would be set in place with the use of a barge and crane. The rock bolt would be a 1-1/2-inch galvanized eyebolt drilled into beach rock and set with grout.
- 2) The second part of the project is the placement of rip-rap along 200-foot of the existing bank. An excavator would be used to place the rocks during an ebbing tide. Approximately 55 cubic yards (CY) of riprap would be used, and approximately half of this would be below the high tide line.
- 3) The third part of the project would include the removal of 160-foot of existing 20-foot wide access road, and replacing it with a 300-foot section that would follow a gentler grade. Approximately 350 CY of material would be removed from the old road prism and would be used in the construction of the new alignment. An additional 310 CY of fill would be needed to complete the new alignment.

PURPOSE: To protect the floating dock and associated pilings, prevent erosion along the shoreline, and lessen the slope of the access road to increase safety.

ADDITIONAL INFORMATION: The existing floating dock (10-foot by 40-foot), pier (6-foot by 110-foot), down ramp (5-foot by 60-foot), access road, and sewage outfall were originally permitted on April 5, 2000 (Tongass Narrows 523).

MITIGATION: None proposed.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRs) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: The project area is within the known or historic range of the Humpback whale (*Megaptera novaeangliae*) and the Steller sea lion (*Eumetopias jubatus*), listed as endangered and threatened under the Endangered Species Act (ESA), respectively. Preliminarily, it has been determined that the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the ESA of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects

to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the NMFS. EFH for Pacific Cod, Arrowtooth Flounder, Pacific Ocean Perch, Walleye Pollock, Dusky Rockfish, Shortraker and Rougheye Rockfish, Yelloweye Rockfish, Sculpin, and Skate exists within the project area. However, we have preliminarily determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mr. Carlos Paez, (907) 753-2720, toll free from within Alaska at (800) 478-2712, if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

- (X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

- (X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-1999-1988-M, Tongass Narrows**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
410 Willoughby Avenue
Juneau, Alaska 99801-1795
Telephone: (907) 465-5321
FAX: (907) 465-5274

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING

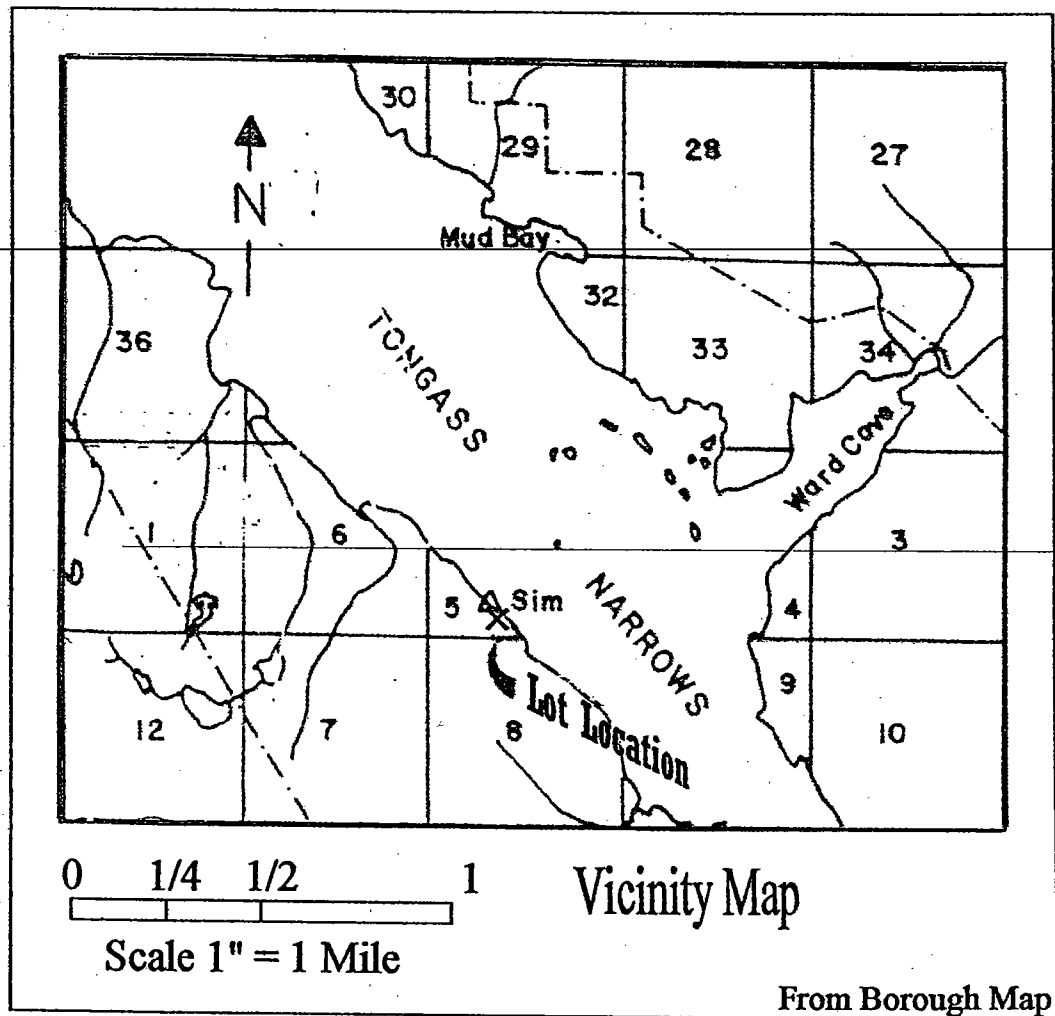
ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No.

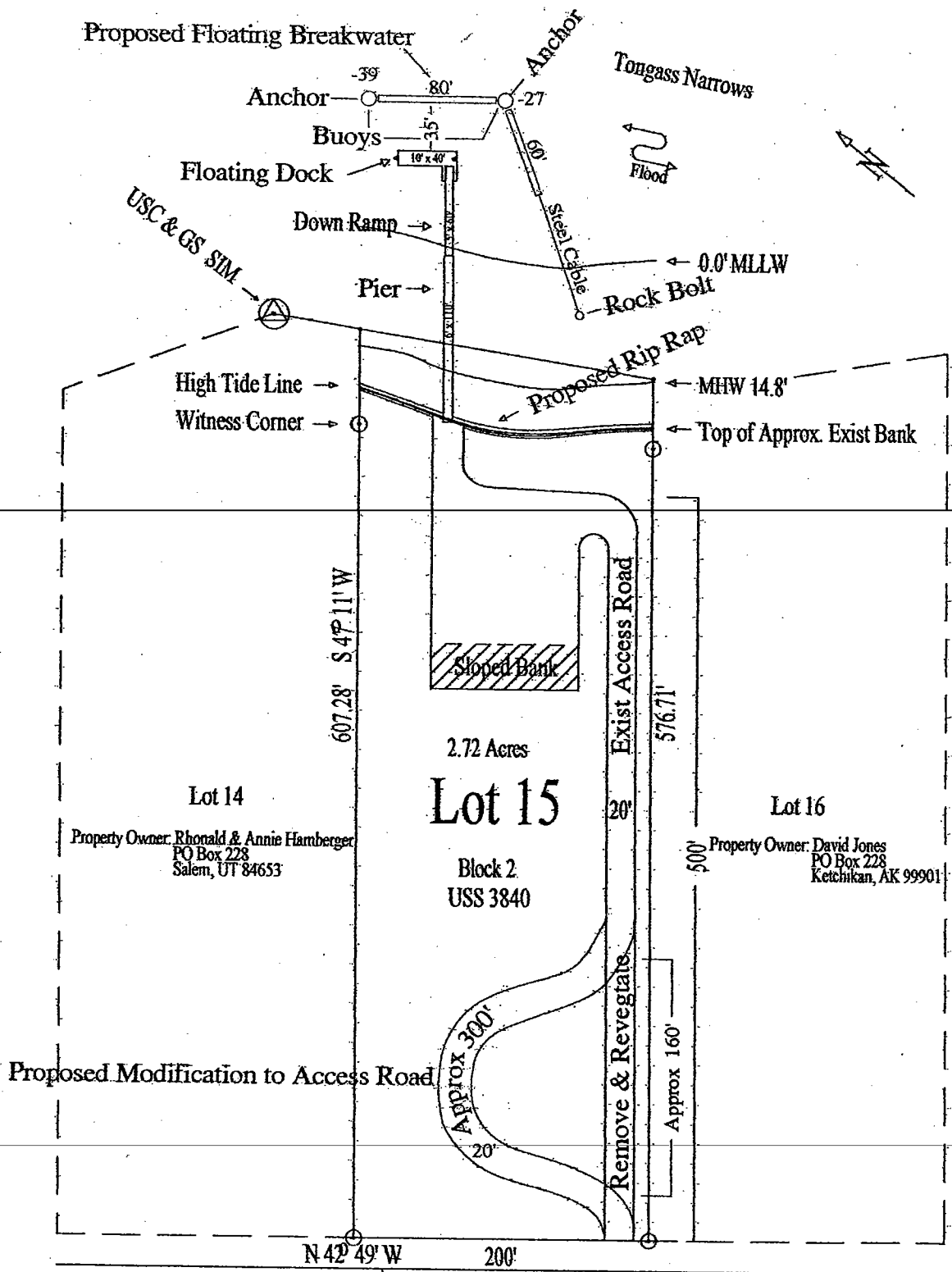
POA-1999-1988-M, Tongass Narrows, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.



Lot Location

Lot 15 / Block 2 / USS 3840 / Sec. 5 / Range. 90 E / Township. 75 S / Copper River Meridian
 Longitude 131 46' 17" West Latitude 55 23' 26" North

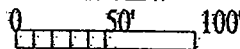


Purpose: Help reduce damaging wave action to floating dock, prevent erosion of uplands and lessen the grade of access road.

Notes:

1. All depths based on MLLW = 0.0'

PLAN VIEW



Scale 1" = 100'

Brian E Miller
PO Box 1456
Ward Cove 99928

Drawings by: Brian Miller
Sheet — of — Date

Proposed : Floating Breakwater, Rip Rap, and modified Access Road.

IN: Tongass Narrows
AT: Gravina Island
Lot 15 / Block 2 / USS 3840
Sec. 5 / Range. 90 E / Township. 75 S
Copper River Meridian
Long. 131° 46' 17" W
Lat. 55° 23' 26" N

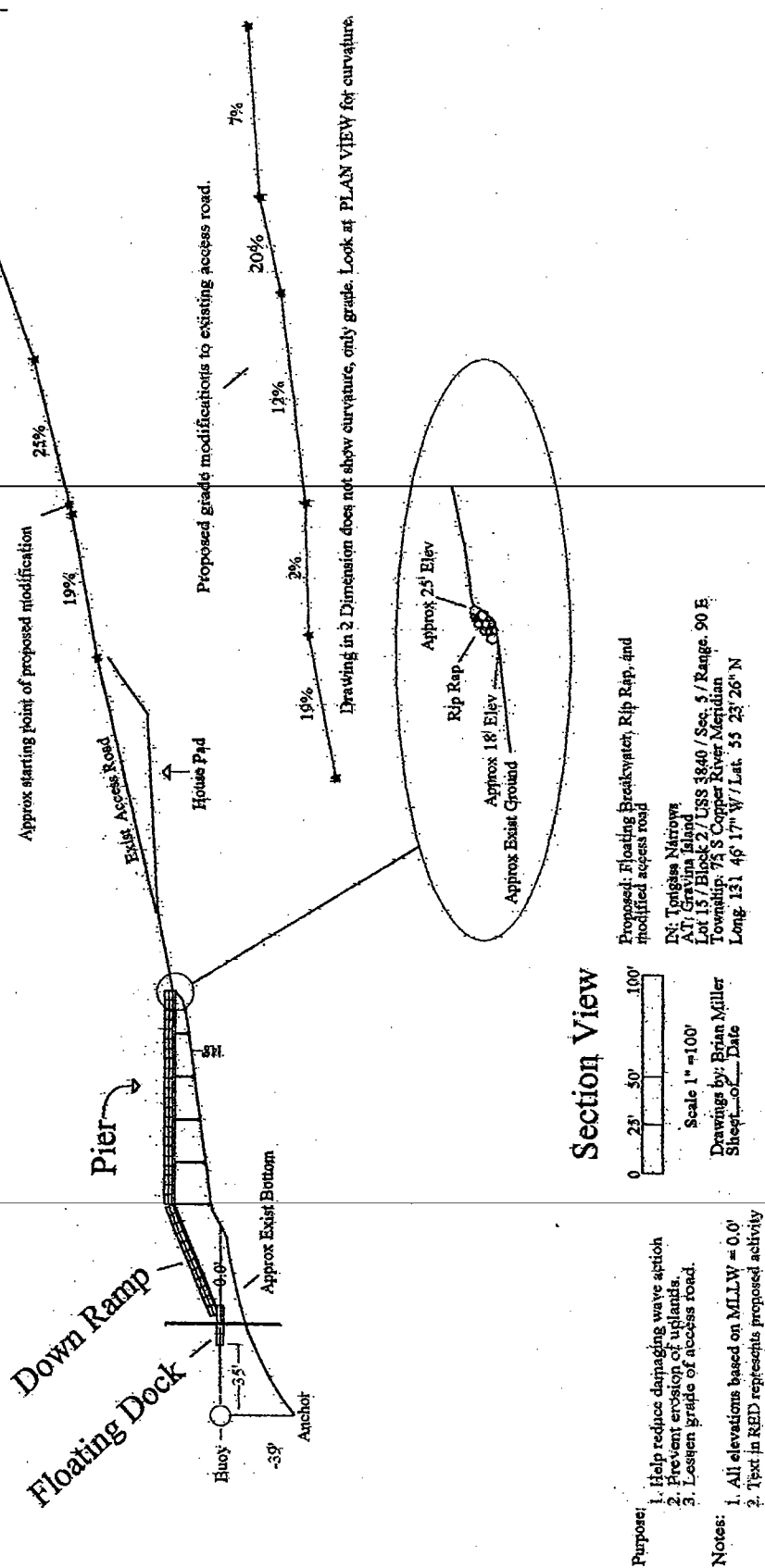
POA-1999-1988-M

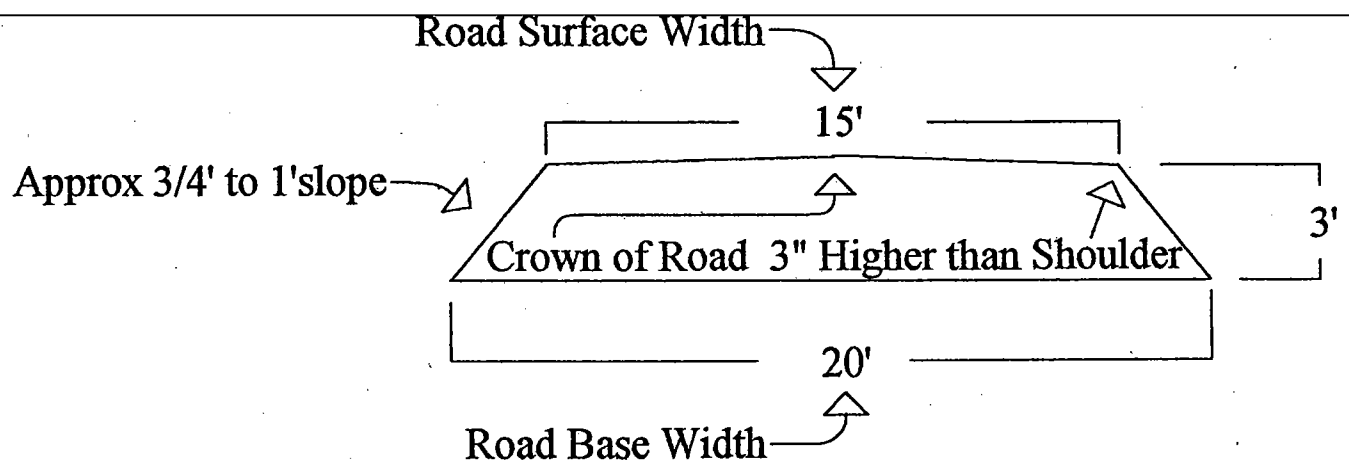
Brian Miller

Tongass Narrows

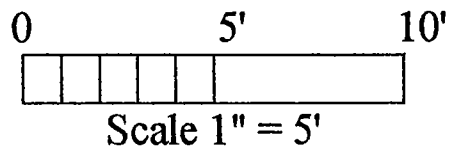
June 28, 2004

Sheet 2/4





Road Cross Section



Drawings by: Brian Miller
 Sheet___ of___ Date